



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Hon. Hubert G. Wright  
Assistant County Attorney  
Willacy County  
Raymondville, Texas

Dear Sir:

Opinion No. O-1017

Re: Under the facts set forth, is the county judge entitled to additional compensation for each day that he actually serves as chairman of the commissioners' court?

Your request for an opinion on the above stated question has been received by this office.

Your letter reads in part as follows:

"1. Willacy County being a county of 10,499 population according to the census of 1930, and its officers being paid on fee basis, is the County Judge thereof, who receives a salary of \$195.00 per month from the county, entitled to additional compensation for each day that he actually serves as chairman of the Commissioners' Court thereof?

"2. If he is entitled to such additional compensation, is the amount thereof set by statute, and if so set, what is such amount?

"3. If not so set, how and by whom is such amount determined?

Article 3883, R. C. S., reads in part as follows:

"Except as otherwise provided in this Act, the annual fees that may be retained by precinct, county and district officers mentioned in this Article shall be as follows:

"1. In counties containing twenty five (25,000) thousand or less inhabitants: County Judge, District or Criminal District Attorney, Sheriff, County Clerk, County Attorney, District Clerk, Tax Collector, Tax Assessor, or the Assessor and Collector of Taxes, Twenty-four Hundred (\$2400.00) Dollars each; Justice of the Peace and Constable, Twelve Hundred (\$1200.00) Dollars each...."

Section 3 of Article 3926, R. C. S. as amended, reads as follows:

"For presiding over the Commissioners' Court, ordering elections and making returns thereof, hearing and determining civil causes, if any, and transacting all other official business not otherwise provided for, the County Judge shall receive such salary from the County Treasury as the Commissioners' Court may allow him by order, payable monthly from the General funds of the county, provided, that in counties having \$290,000,000.00 assessed valuation, or more, and which have established therein institutions for the care of both dependent and delinquent boys and girls, the County Judge shall receive as ex-officio salary, not to be accounted for as fees of office, and in addition to all amounts allowed under the Maximum Fee Bill, the further sum of \$3,000.00 per annum, payable monthly out of the general funds of the county."

Article 3895, R. C. S. provides that:

"The Commissioners' Court is hereby debarred from allowing compensation for ex-officio services

to county officials when the compensation and excess fees which they are allowed to retain shall reach the maximum provided for in this chapter. In cases where the compensation and excess fees which the officers are allowed to retain shall not reach the maximum provided for in this chapter, the Commissioners' Court shall allow compensation for ex officio services when, in their judgment, such compensation is necessary, provided, such compensation for ex officio services allowed shall not increase the compensation of the official beyond the maximum of compensation and excess fees allowed to be retained by him under this chapter. Provided, however, the ex officio herein authorized shall be allowed only after an opportunity for a public hearing and only upon the affirmative vote of at least three members of the Commissioners' Court."

Article 3891, R. C. S., reads in part as follows:

"Each officer named in this Chapter shall first out of the current fees of his office pay or be paid the amount allowed him under the provisions of Article 3883, together with the salaries of his assistants and deputies, and authorized expenses under Article 3899, and the amount necessary to cover costs of premium on whatever surety bond may be required by law. If the current fees of such office collected in any year be more than the amount needed to pay the amounts above specified, same shall be deemed excess fees, and shall be disposed of in the manner hereinafter provided.

"In counties containing twenty-five thousand (25,000) or less inhabitants, District and County officers named herein shall retain one-third of such excess fees until such one-third, together with the amounts specified in Article 3883, amounts

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"to Three Thousand Dollars (\$3,000). Precinct officers shall retain one-third until such one-third, together with the amount specified in Article 3883, amounts to Fourteen Hundred Dollars (\$1400)....."

The only statute now in force referring directly to compensation due a county judge for presiding over the commissioners' court is sub-division 3, Article 3926, supra.

Under Articles 3883 and 3891, R. C. S., the maximum fee for the county judge of Willacy County is Three Thousand (\$3,000) Dollars. Article 3885, supra, provides for compensation for exofficio services debarring allowance thereof when the compensation and excess fees reach the maximum provided by law.

The One Hundred and Ninety-five (\$195.00) Dollars ex officio monthly salary allowed by the Commissioners' Court compensates the county judge for presiding over the commissioners' court, ordering elections and making returns thereof, and transacting all other official business not otherwise provided for.

You are respectfully advised that it is the opinion of this department that the county judge of Willacy County is not entitled to additional compensation for presiding over the commissioners' court. As we have answered your first question in the negative, it is not necessary that we answer the questions Nos. 2 and 3.

Trusting that the foregoing answers your inquiry, we remain

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *Ardell Williams*

Ardell Williams  
Assistant

APPROVED JUL 8, 1939  
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*H. G. Wright*  
FIRST ASSISTANT  
ATTORNEY GENERAL

